

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re:	Carozzi et al.	Confirmation No.:	5854
Appl. No.:	10/782,096	Group No.:	1638
Filed:	February 19, 2004	Examiner:	Anne R. Kubelik
For:	AXMI-009, A DELTA-ENDOTOXIN GENE AND METHODS FOR ITS USE		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 CFR § 1.59(b) TO EXPUNGE INFORMATION  
SUBMITTED UNDER M.P.E.P. § 724.02 IN RESPONSE TO REQUEST FOR  
INFORMATION  
UNDER 37 C.F. R. § 1.105  
(M.P.E.P. § 724.05.)**

1. Applicant respectfully requests that the information submitted on November 26, 2008, entitled as Response to Request for Information Under 37 C.F.R. § 1.105, and dealing with the source and public availability of *B. thuringiensis* strain ATX13026 be expunged and returned, since it is considered proprietary material.
2. The above identified information was submitted in response to a Request for Information by the Examiner and the failure to obtain its return would cause irreparable harm to:  
☐ the party who submitted the information  
☒ the party in interest on whose behalf the information was submitted.
3. The above-identified information has not otherwise been made public.
4. Petitioner commits to retain the above-identified information for the period of any patent with regard to which this information was submitted.
5. Petitioner submits that the above-identified information that is requested to be returned is not material information under 37 CFR § 1.56.

6. The fee required by 37 CFR 1.17(h) is to be paid as follows:
- ☒ Charge the \$200.00 Petition Fee to Deposit Account No. 16-0605.
  - ☒ Charge Deposit Account No. 16-0605 for any deficiencies.

Respectfully submitted,

/destiny m. davenport/

Destiny M. Davenport  
Registration No. 60,360

**CUSTOMER NO. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Raleigh Office (919) 862-2200  
Fax Raleigh Office (919) 862-2260

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON MARCH 17, 2009.**